

**REMARKS**

Claims 1 - 20 are pending in the present application. Reconsideration of the application is respectfully requested.

The Office Action, on page 2, objects to claims 3, 4, 13 and 14. Applicant is amending claims 3, 4, 13 and 14 to address this objection. A withdrawal of the objection is respectfully solicited.

In the Office Action, on page 2, claims 1 – 10 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant is amending claims 1 – 10 so that they are now directed toward a system. A withdrawal of the section 101 rejection is respectfully requested.

In the Office Action, on page 3, claims 8, 9, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph. Applicant is amending claims 8, 9, 18 and 19 to address this rejection. A withdrawal of the section 112 rejection is respectfully requested.

In the Office Action, on page 4, claims 1 – 7, 10 – 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,417,762 to Comer (hereinafter “the Comer patent”) in view of U.S. Patent No. 6,515,485 to Bullock et al. (hereinafter “the Bullock et al. patent”). Applicant is traversing this rejection.

Claim 1 provides for a system that includes, *inter alia*, a modem for providing an output to a power line, a sensor for sensing a parameter of the output, and a controller for adjusting a power of the output based on a value of the parameter. Thus, the controller is for adjusting the power output of the modem, based on a value of the parameter of the output.

The Comer patent, with reference to FIG. 5, discloses a system that includes a transmitter 70 (col. 7, line 10) and a tuning element 76 (col. 7, line 12). Tuning element 76 is selected to either match the impedance of a building ground 20 and a neutral line 22 (col. 8, lines 46 – 50), or differentiate the

impedances for building ground 20 and neutral line 22 (col. 8, lines 53 – 58). Thus, the selection of tuning element 76 is apparently a function of the impedance of building ground 20 and neutral line 22.

The Office Action, on page 4, suggests that tuning element 76 is for adjusting the power output of transmitter 70 based on the impedance of building ground 20 and neutral line 22. However, the Comer patent does not expressly state that tuning element 76 adjusts the power output of transmitter 70. Also, regardless of whether tuning element 76 does adjust the power output of transmitter 70, whereas the selection of tuning element 76 is apparently a function of the impedance of building ground 20 and neutral line 22, the selection of tuning element 76 is not based on a value of a parameter of an output from transmitter 70. Consequently, the Comer patent does not disclose a controller for adjusting a power of an output (of a modem) **based on a value of a parameter (of the output of the modem)**, as recited in claim 1.

Moreover, whereas in the system disclosed in the Comer patent the selection of tuning element 76 is apparently a function of the impedance of building ground 20 and neutral line 22, a modification of the system in the Comer patent so that the selection of tuning element 76 is based on a value of a parameter of an output from transmitter 70 would arguably change the principle of operation of the system. As such, the Comer patent **cannot be asserted in a section 103(a) rejection of claim 1**. This deficiency on the part of the Comer patent as it relates to claim 1 **cannot be cured** by combining the Comer patent with another reference.

Additionally, the Office Action, on page 4, recognizes that the Comer patent does not explicitly disclose a sensor for sensing a parameter of an output (of a modem). Accordingly, the Office Action looks to the Bullock et al. patent for this feature. However, whereas in the system disclosed by the Comer patent the selection of tuning element 76 is apparently a function of the impedance of building ground 20 and neutral line 22, rather being based on a value of a parameter of an output from transmitter 70, there is no apparent need to sense the output of transmitter 70. Therefore, there is **no motive to combine** the Comer and Bullock et al. patents.

For the reasoning provided above, Applicant submits that claim 1 is patentable over the cited combination of the Comer and Bullock et al. patents.

Claims 2 – 7 and 10 depend from claim 1. By virtue of this dependence, claims 2 – 7 and 10 are also patentable over the cited combination of the Comer and Bullock et al. patents.

Claim 11 includes recitals similar to those of claim. Accordingly, claim 11, for reasoning similar to that provided above in support of claim 1, is patentable over the cited combination of the Comer and Bullock et al. patents.

Claims 12 – 17 and 20 depend from claim 11. By virtue of this dependence, claims 12 – 17 and 20 are also patentable over the cited combination of the Comer and Bullock et al. patents.

Applicant respectfully requests reconsideration and withdrawal of the section 103(a) rejection of claims 1 – 7, 10 – 17 and 20.

The Office Action, on page 6, rejects claims 8, 9, 18 and 19 under 35 U.S.C. 103(a) as being unpatentable over the Comer and Bullock et al. patents, further in view of U.S. Patent No. 4,556,866 to Gorecki (hereinafter “the Gorecki patent”). Applicant is traversing this rejection.

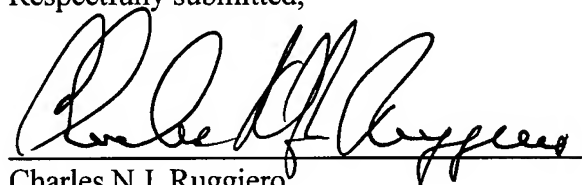
Claims 8 and 9 depend from claim 1, and claims 18 and 19 depend from claim 11. Above, Applicant explained that deficiency on the part of the Comer patent as it relates to claim 1 cannot be cured by combining the Comer patent with another reference. As such, claim 1 is patentable over the cited combination of the Comer, Bullock et al. and Gorecki patents. Claims 8 and 9, by virtue of their dependence on claim 1, are also patentable. Claim 11, having recitals similar to claim 1, is also patentable, and claims 18 and 19, by virtue of their dependence on claim 1 are also patentable.

Applicant respectfully requests reconsideration and withdrawal of the section 103(a) rejection of claims 8, 9, 18 and 19.

In view of the foregoing, Applicant respectfully submits that all claims presented in this application patentably distinguish over the prior art. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed to allowance.

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Respectfully submitted,



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